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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/707,019

11/14/2003

Matthew Hunt

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EXAMINER

BOES, TERENCE

ART UNIT

PAPER NUMBER

3682

NOTIFICATION DATE

DELIVERY MODE

09/05/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/707,019	Applicant(s) HUNT ET AL.	
	Examiner TERENCE BOES	Art Unit 3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 23-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11-23 and 26 is/are rejected.
- 7) ☒ Claim(s) 7-10, 24 and 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because of the reasons listed on attached PTO 948. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 16-21 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Kuo US 6,767,024.

Kuo discloses:

- a body (30) attachable to a handlebar (C) of the handlebar-steered vehicle;
- an actuator assembly (22, B) including a lever arm (see arm portion of 22) in pivoting engagement with the body (30) about a pivot axis,
- the lever arm associated with a suspension adjust cable (B),
- the actuator assembly having a first position corresponding to a first suspension setting (C3/L25-50, the position of the actuator shown in figure

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4B) and a second position (C3/L25-50, the position shown in figure 4) corresponding to a second suspension setting;

- an actuator control assembly (20, 21) including an adjustment assembly (21, 20) associated with each of the body (30) and the actuator assembly,
- wherein the actuator control assembly further includes a locking assembly (231, 13)
- wherein the locking assembly includes a push-button (231) associated with the body,
- wherein the locking assembly further comprises: a locking guide surface (see surface of 231) having a locking region (see region occupied by follower pin 13 in figure 4B); and a locking follower assembly (13, 231, 212) including the push-button (231) with a follower pin (13) disposed thereon,
- wherein the locking follower assembly further comprises a biasing member (see 212 in figure 4, or 23) associated with the push-button,
- wherein the first suspension setting is substantially rigid (C3/L25-50, the position of the actuator shown in figure 4B)
- wherein the adjustment assembly comprises an adjustment guide surface (21, or 212) and a translationally adjustable mating pin (12, or 13) configured to engage the adjustment guide surface.
- Wherein the pivot axis of the lever arm (22) is substantially parallel to an axis of the handlebar (C).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 11-15 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuo US 6,767,024 in view of Girvin US 6,382,370.

Kuo discloses:

- a body (30) attachable to a handlebar (C) of the handlebar-steered vehicle (see bicycle in figure 2);
- an actuator assembly (21, 22) including a lever arm (see arm portion of 22) in pivoting engagement with the body about a pivot axis,
- the lever arm associated with a suspension adjust cable (B) ;
- an actuator control assembly (), the actuator control assembly including:
- a locking assembly (13, 231, 212) associated with each of the body and the actuator assembly,
- an adjustment assembly (20, 111, 113, 11) associated with each of the body and the actuator assembly,
- wherein the first suspension setting is substantially rigid (C3/L25-50, first suspension setting corresponds to the lockout position shown also in figure 4B).

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- wherein the pivot axis of the lever arm is substantially parallel with an axis of the handlebar (see figure 1, pivot axis of the lever arm is shown parallel with axis of handlebar)
- wherein the lever arm further includes: a cable securing assembly (see figures 4-4B, cable B is secured into lever 22); and an actuation tab (actuation tab is upper portion of 22).
- wherein a cable moment arm created by the cable securing assembly and the pivot axis is smaller than an actuation moment arm created by the actuation tab and the pivot axis (see figures 4-4B, cable securing assembly is shown radially inward of actuation tab, thus resulting in a smaller moment arm).
- wherein the body further comprises an attachment assembly (30 is concentrically mounted around handlebar C) including a ring clamp capable of substantially concentric position about the handlebar.

Kuo discloses a suspension adjust cable actuator with a pivot axis. Kuo does not disclose a pivot axis spaced apart from an axis of the handlebar. Girvin teaches an actuator (15) with a pivot axis spaced apart from (see figure 1) an axis of the handlebar (13). Because both Kuo and Girvin teach suspension adjust cable actuators, it would have been obvious to one having ordinary skill in the art at the time of the invention to substitute a pivot axis spaced apart from an axis of the handlebar for a coaxial pivot axis to achieve the predictable result of actuating a suspension adjust cable.

Allowable Subject Matter

3. Claims 7-10, 24, and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant argues "The second collar 20 of Kuo is merely a wrap-around extension of the lever 22 about the handlebar C and therefore incapable of providing any position adjustment feature to the lever 22. Farther, the positioning groove 21 of Kuo merely positions the control cane B within the second collar 20. Accordingly, it serves no positioning function with respect to the lever 22. As the Kuo device is entirely missing an adjustment assembly, it not only cannot provide a range of alternative range second suspension positions for the lever 22, but cannot facilitate the repeated switching of lever 22 between a first position and any one of alternative second positions. The Kuo device may only be toggled between a locked position and an unlocked position."

In response, the device of Kuo is capable of being adjusted within a range of alternative second suspension settings independent of the first suspension setting. For example, see figure 4. The adjustment range corresponds to an angular range of approximately 90 degrees shown between reference character 11 and stop device 13. Additionally, the claim language "configured to" followed by functional language within the apparatus claims is given limited patentable weight. The Kuo device is capable of the claimed functions. The examiner notes while features of an apparatus may be recited either structurally or functionally, claims directed to >an< apparatus must be

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distinguished from the prior art in terms of structure rather than function. The reference discloses all claimed structural limitations and therefore anticipates the claim. See MPEP 2114.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TERENCE BOES whose telephone number is (571)272-4898. The examiner can normally be reached on Monday - Friday 9:00 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. B./

Examiner, Art Unit 3682

8/20/08

/Richard WL Ridley/

Supervisory Patent Examiner, Art Unit 3682